

REMARKS

I. Status of claims

Claims 1-27 are pending in this application. Reconsideration is respectfully requested in view of the following remarks.

II. Claim Rejections

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,389,40 to Bushey et al. (hereinafter “Bushey”) in view of U.S. Publication No. 2003/0215083 A1 to McPartlan et al. (hereinafter “McPartlan”). This rejection is respectfully traversed.

Even if combined, Bushey and McPartlan fail to disclose the features of independent claims 1, 8, 12, 20, and 24-27. In summary, the Office Action fails to establish a *prima facie* case of obviousness. Specifically, before considering what would be obvious to one of ordinary skill in the art at the time of the invention, the art must teach or suggest the claim limitations. See MPEP §2143.

Bushey does not disclose the features as presently claimed. For example, regarding claims 1 and 24-27, Bushey fails to teach or suggest pre-forming a call routing strategy or a list of offers in anticipation of customer calls. Instead, Bushey only discloses call routing decisioning after receiving a customer call. *See e.g.*, Bushey at Figures 1 and 2, col. 8, lines 16-30 and lines 35-47.

Furthermore, Bushey fails to disclose the specific steps involved in forming a call routing strategy in anticipation of at least one incoming call from the customer. The steps taken in anticipation of a call include:

“accessing information relating to one or more products or services;

*retrieving customer specific information associated with that customer or an account of that customer;
deciding, for each offer associated with the one or more products or services, and based on one or both of a call probability derived in part from the customer specific information and an offer eligibility derived in part from the customer specific information, whether the customer call may be routed to a cross-sell presentation relating to said each offer associated with the one or more products or services;
forming the call routing strategy for the customer consistent with said deciding;
and
storing the call routing strategy in association with a central server system;"*

Bushey fails to disclose performing any of these claimed steps *in anticipation of* receiving a call from the customer. "Anticipation" is defined for example in www.thefreedictionary.com as "expectation" or "prediction". Thus, "in anticipation of" requires the claimed steps occur before the anticipated event, the event in this case being defined as at least one incoming call from the customer.

Although the Office Action alleges that McPartlan discloses forming a call routing strategy for a customer in anticipation of at least one incoming call from the customer, this allegation appears to be false. The Office Action points to sections of McPartlan including Figs 2-6, paragraph 12, and paragraph 45 and offers the term "pre-call routing". However, paragraph 45 of McPartlan specifically defines "pre-call routing" as a routing decision that is made before the call terminates and NOT as a routing decision made in anticipation of receiving a call.

Additionally, McPartlan is concerned with routing calls based on staffing levels. Thus, McPartlan clearly does not disclose the specific steps set forth in claim 1 for forming a call routing strategy in anticipation of receiving a customer call.

Furthermore, claim 1 defines, among other things, further details of generating routing control signals in a virtual call center integrating telephony with computers as disclosed and claimed in the parent applications 10/286,767 (now U.S. Patent No. 6,714,642) and 09/349,960

(now U.S. Patent No. 6,553,113). *See e.g.*, claims 1, 8 and 15 of U.S. Patent No. 6,714,642. For example, claim 1 recites:

“... receiving information of a call at the central server system;
generating a first routing control signal to route the call to an interactive voice response unit shared by a plurality of call sites, wherein the interactive voice response unit is external to an exchange carrier providing the call;
receiving input from a caller at the interactive voice response unit, the input at least identifying the caller as the customer for whom the call routing strategy has been pre-formed; and
generating a second routing control signal for routing the call to one of said plurality of call sites based at least in part on the pre-formed call routing strategy associated with that customer.”

Bushey fails to disclose these features at least because Bushey fails to disclose the pre-formed call routing strategy and associated steps. Claims 8, 12, 20, and 24-27 recite same or similar features. McPartlan fails to obviate the deficiencies of Bushey. Thus, even if combined, the references would not have arrived at the invention as claimed.

In order to establish a *prima facie* case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). That is, “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970); *In re Edward S. Lowry*, 32 F.3d 1579, 1582 (Fed. Cir. 1994). In summary, the Office Action fails to establish a *prima facie* case of obviousness with respect to the above-identified claims.

Claims 2-7 depend from claim 1 and therefore define over the art of record for at least the reasons set forth above with respect to claim 1.

Furthermore, regarding claims 8, 12 and 20, Bushey never mentions the use of “*call a probability derived from the customer specific information*” in its call routing decisioning

process. As defined in the present specification on page 29, a call probability is a probability of between 0 and 1 that indicates the likelihood that a customer will call at least once.

Bushey already knows the customer has called, because Bushey makes its determinations upon receiving the call. Accordingly, Bushey fails to disclose at least this feature. As set forth above, McPartlan fails to obviate the deficiencies of Bushey. McPartlan fails to consider the call probability.

Accordingly, with respect to claims 8, 12, and 20, the combination of references fails to result in the claimed invention. Thus, a *prima facie* case of obviousness has not been established.

Claims 9-11, 13-19, and 21-23 depend from claims 8, 12, and 20 respectively, and therefore define over the art of record for at least the reasons set forth above with respect to the independent claims.

In view of the foregoing, it is respectfully requested that the aforementioned rejection of claims 1- 27 be withdrawn.

III. Conclusion

As set forth above, applicants respectfully submit that all claims are in condition for allowance. Withdrawal of all rejections and prompt passage to issuance are earnestly requested. In the event Applicants have overlooked the need for an extension of time, payment of fee, or additional payment of fee, Applicants hereby petition therefore and authorize that any charges be made to Deposit Account No. 50-4494.

Should the Examiner have any questions regarding any of the above, the Examiner is respectfully requested to telephone the undersigned at 202-346-4016.

Respectfully submitted,

By: //Kerry H. Owens//
Kerry H. Owens
Registration No. 37,412

GoodwinProcter LLP
901 New York Ave., N.W.
Washington, D.C. 20001
(202) 346-4000

Dated: November 18, 2008